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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/715,354	11/17/2000	Junan Kao	8322R	6333

27752 7590 03/08/2004

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EXAMINER

CHIN, PETER

ART UNIT PAPER NUMBER

1731

DATE MAILED: 03/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 20040301

Application Number: 09/715,354
Filing Date: November 17, 2000
Appellant(s): KAO ET AL

David K. Mattheis
For Appellant

EXAMINER'S ANSWER

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GROUP 1700

This is in response to the appeal brief filed December 9, 2003.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is substantially correct. The changes are as follows:

I. Rejection of claims 1-5, 15 and 16 under 35 USC 102(b) or 103(a) over Morgan et al, Bredendick et al, Tseng et al (5,652,035), Atkins, Milliken ('431 or '945) or Bletzinger et al is withdrawn in view of Appellant's arguments.

II. Rejection of claims 6,7 and 17 under 35USC 103(a) over Morgan et al, Tseng et al, Atkins, Millikin ('431 or '945) or Bletzinger et al is hereby withdrawn in view of Appellant's arguments.

(7) Grouping of Claims

The claims stand or fall together with respect to the rejection of the claims under 35 UC112, paragraph 1 as stated in the brief.

(8) Claims Appealed

The copy of the appealed claims contained in the Appendix to the brief is correct.

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-20,24 and 25 are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The presence of apertures, perforations, slits or cuts are critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976). See page 9 of the instant disclosure.

(11) Response to Argument

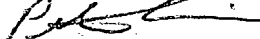
Appellant's arguments are directed to whether or not there is sufficient disclosure to enable one to make and use the claimed invention. The rejection is based on the scope of enablement. Only the use of the perforations, slits or cuts are disclosed and shown to be able to create the necessary expansion upon application and release of tension to the substrate. This is critical to the invention and must be claimed. The holding in *In re Mayhew* (method claims notwithstanding) is applicable to the instant case.

For the above reasons, it is believed that the rejections should be sustained.

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Art Unit: 1731

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Respectfully submitted,


Peter Chin
Primary Examiner
Art Unit 1731

March 2, 2004

Conferees

Steven Griffin 

Patrick Ryan 